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Docket No.: 204633US2

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

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RE: Application Serial No.: 09/816,363

Applicants: Vincent A. BELAICHE

Filing Date: March 26, 2001

For: SPREAD SPECTRUM MODULATION METHOD
WITH DISCONTINUOUS SPREADING CODE,
CORRESPONDING DEMODULATION METHOD,
MOBILE STATION AND BASE STATIONS

Group Art Unit: 2631

Examiner: Phuong M. Phu

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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DOCKET NO: 204633US2



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
VINCENT A. BELAICHE : EXAMINER: PHUONG M. PHU
SERIAL NO: 09/816,363 :
FILED: MARCH 26, 2001 : GROUP ART UNIT: 2631
FOR: SPREAD SPECTRUM :
MODULATION METHOD WITH
DISCONTINUOUS SPREADING CODE,
CORRESPONDING DEMODULATION
METHOD, MOBILE STATION AND
BASE STATIONS

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement stated in the Official Action dated September 20, 2004, Applicants in the above-identified patent application provisionally elect Group I, Claims 1-21, drawn to modulation of signals, classified in class 375, subclass 146.

Applicants respectfully traverse the Restriction Requirement for several reasons.

First, the outstanding Official Action bases the restriction on the finding that "invention II has separate utility such as step/means for assigning a spectrum disspreading code; step/means for generating at least one spectrum disspreading code; step/means for correlating with the spectrum disspreading code, etc." This conclusory reference to step/means claim terminology fails to show that the combination as claimed does not require the particulars of the sub-combination. Lacking such additional analysis as required by MPEP §806.05, it is respectfully submitted the PTO clearly has not carried forward its burden of proof to establish distinctness.

Second, the Restriction Requirement asserts that the application contains claims to distinct inventions. However, MPEP §803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention, as part of class 375, would appear to be of an overlapping search area. Accordingly, Applicants respectfully **traverse** the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

However, if the present Restriction Requirement is not withdrawn, examination on the merits of the Claims of Group I are believed to be in order, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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